

AMENDED IN ASSEMBLY APRIL 10, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2630

Introduced by Assembly Member Hueso

February 24, 2012

~~An act to amend Section 7084 of the Government Code, relating to economic development. An act to amend Section 10111 of the Public Contract Code, relating to public contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2630, as amended, Hueso. ~~Enterprise Zone Act: contract preferences. Public contracts: State Contract Act: report.~~

Existing law requires the Department of General Services to make available a report on state agency contracting activity containing certain information.

This bill would require the Department of General Services, beginning in the year 2013, to include in that report the list of activities that each state agency used to inform small businesses of each of the existing preferences available under state law, and the total number of preferences used in bidding packages by each state agency for the year.

~~The Enterprise Zone Act provides for the designation and oversight by the Department of Housing and Community Development of various types of economic development areas throughout the state, including, but not limited to, targeted employment areas and enterprise zones. The act requires the state to award specified percentages as preferences when soliciting bids for certain contracts, including, but not limited to, contracts that include certification under penalty of perjury that the~~

~~bidder agrees to hire persons who live within a targeted employment area or who are enterprise zone eligible employees, as defined. The act provides that the maximum preference a bidder may be awarded under the act is 15%.~~

~~This bill would increase the specified percentages of the preference for bidders agreeing to hire persons who are living within a targeted employment area or who are enterprise zone eligible employees, as defined. The bill would also make a technical, nonsubstantive change.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10111 of the Public Contract Code is
2 amended to read:
3 10111. Commencing January 1, 2007, the department shall
4 make available a report on contracting activity containing the
5 following information:
6 (a) A listing of consulting services contracts that the state has
7 entered into during the previous fiscal year. The listing shall
8 include the following:
9 (1) The name and identification number of each contractor.
10 (2) The type of bidding entered into, the number of bidders,
11 whether the low bidder was accepted, and if the low bidder was
12 not accepted, an explanation of why another contractor was
13 selected.
14 (3) The amount of the contract price.
15 (4) Whether the contract was a noncompetitive bid contract,
16 and why the contract was a noncompetitive bid contract.
17 (5) Justification for entering into each consulting services
18 contract.
19 (6) The purpose of the contract and the potential beneficiaries.
20 (7) The date when the initial contract was signed, and the date
21 when the work began and was completed.
22 (b) The report shall also include a separate listing of consultant
23 contracts completed during that fiscal year, with the same
24 information specified in subdivision (a).
25 (c) The information specified in subdivisions (a) and (b) shall
26 also include a list of any contracts underway during that fiscal year
27 on which any change was made regarding the following:

1 (1) The completion date of the contract.

2 (2) The amount of money to be received by the contractor, if it
3 exceeds 3 percent of the original contract price.

4 (3) The purpose of the contract or duties of the contractor. A
5 brief explanation shall be given if the change in purpose is
6 significant.

7 (d) The level of participation, by agency, of disabled veteran
8 business enterprises in statewide contracting and shall include
9 dollar values of contract award for the following categories:

10 (1) Construction.

11 (2) Architectural, engineering, and other professional services.

12 (3) Procurement of materials, supplies, and equipment.

13 (4) Information technology procurements.

14 Additionally, the report shall include a statistical summary
15 detailing each awarding department's goal achievement and a
16 statewide total of those goals.

17 (e) The level of participation by small business in state
18 contracting including:

19 (1) Upon request, an up-to-date list of eligible small business
20 bidders by general procurement and construction contract
21 categories, noting company names and addresses and also noting
22 which small businesses also qualify as microbusinesses.

23 (2) By general procurement and construction contract categories,
24 statistics comparing the small business and microbusiness contract
25 participation dollars to the total state contract participation dollars.

26 (3) By awarding department and general procurement and
27 construction categories, statistics comparing the small business
28 and microbusiness contract participation dollars to the total state
29 contract participation dollars.

30 (4) Any recommendations for changes in statutes or state policies
31 to improve opportunities for small businesses and microbusinesses.

32 (5) A statistical summary of small businesses and
33 microbusinesses certified for state contracting by the number of
34 employees at the business for each of the following categories:
35 0–5, 26–50, 51–75, and 76–100.

36 (6) To the extent feasible, beginning in the year 2008, the
37 number of contracts awarded by the department in the categories
38 specified in paragraph (5).

39 (7) The number of contracts and dollar amounts awarded
40 annually pursuant to Section 14838.5 of the Government Code to

1 small businesses, microbusinesses, and disabled veteran business
2 enterprises.

3 *(8) Beginning in the year 2013, the list of activities that each*
4 *state agency used to inform small businesses of each of the existing*
5 *preferences available under state law, and the total number of*
6 *preferences used in bidding packages by each state agency for the*
7 *year.*

8 (f) The level of participation of business enterprises, by race,
9 ethnicity, and gender of owner, in contracts as identified in Section
10 2051 of the Government Code, to the extent that the information
11 has been voluntarily reported to the department. In addition, the
12 report shall contain the levels of participation of business
13 enterprises, by race, ethnicity, and gender of owner, for the
14 following categories of contracts, to the extent that the information
15 has been voluntarily reported to the department:

16 (1) Construction.

17 (2) Purchases of materials, supplies, or equipment.

18 (3) Professional services.

19 (g) In the years 2011 and 2012, any errors reported to the
20 department by an awarding agency as required by Sections 10302,
21 10344, and 12104.5, in the previous fiscal year.

22 **SECTION 1.** Section 7084 of the Government Code is amended
23 to read:

24 ~~7084. (a) Whenever the state prepares a solicitation for a~~
25 ~~contract for goods in excess of one hundred thousand dollars~~
26 ~~(\$100,000), except a contract in which the worksite is fixed by the~~
27 ~~provisions of the contract, the state shall award a 5-percent~~
28 ~~preference to California-based companies that demonstrate and~~
29 ~~certify under penalty of perjury that of the total labor hours required~~
30 ~~to manufacture the goods and perform the contract, at least 50~~
31 ~~percent of the hours shall be accomplished at an identified worksite~~
32 ~~or worksites located in an enterprise zone.~~

33 ~~(b) In evaluating proposals for contracts for services in excess~~
34 ~~of one hundred thousand dollars (\$100,000), except a contract in~~
35 ~~which the worksite is fixed by the provisions of the contract, the~~
36 ~~state shall award a 5-percent preference on the price submitted by~~
37 ~~California-based companies that demonstrate and certify under~~
38 ~~penalty of perjury that not less than 90 percent of the labor hours~~
39 ~~required to perform the contract shall be accomplished at an~~
40 ~~identified worksite or worksites located in an enterprise zone.~~

1 ~~(c) Where a bidder complies with subdivision (a) or (b), the~~
2 ~~state shall award a 2-percent preference for bidders who certify~~
3 ~~under penalty of perjury to hire persons living within a targeted~~
4 ~~employment area or are enterprise zone eligible employees equal~~
5 ~~to 5 to 9 percent of its workforce during the period of contract~~
6 ~~performance; a 3-percent preference for bidders who shall agree~~
7 ~~to hire persons living within a targeted employment area or are~~
8 ~~enterprise zone eligible employees equal to 10 to 14 percent of its~~
9 ~~workforce during the period of contract performance; a 4-percent~~
10 ~~preference for bidders who shall agree to hire persons living within~~
11 ~~a targeted employment area or are enterprise zone eligible~~
12 ~~employees equal to 15 to 19 percent of its workforce during the~~
13 ~~period of contract performance; and a 5-percent preference for~~
14 ~~bidders who shall agree to hire persons living within a targeted~~
15 ~~employment area or are enterprise zone eligible employees equal~~
16 ~~to 20 or more percent of its workforce during the period of contract~~
17 ~~performance.~~

18 ~~(d) The maximum preference a bidder may be awarded pursuant~~
19 ~~to this chapter and any other provision of law shall be 15 percent.~~
20 ~~However, in no case shall the maximum preference cost under this~~
21 ~~section exceed fifty thousand dollars (\$50,000) for any bid, nor~~
22 ~~shall the combined cost of preferences granted pursuant to this~~
23 ~~section and any other provision of law exceed one hundred~~
24 ~~thousand dollars (\$100,000). In those cases where the 15-percent~~
25 ~~cumulated preference cost would exceed the one hundred thousand~~
26 ~~dollar (\$100,000) maximum preference cost limit, the one hundred~~
27 ~~thousand dollar (\$100,000) maximum preference cost limit shall~~
28 ~~apply.~~

29 ~~(e) Notwithstanding any other provision of this section, small~~
30 ~~business bidders qualified in accordance with Section 14838 shall~~
31 ~~have precedence over non-small business bidders in that the~~
32 ~~application of any bidder preference for which non-small business~~
33 ~~bidders may be eligible, including the preference contained in this~~
34 ~~section, shall not result in the denial of the award to a small~~
35 ~~business bidder. This subdivision shall apply to those cases where~~
36 ~~the small business bidder is the lowest responsible bidder, as well~~
37 ~~as to those cases where the small business bidder is eligible for~~
38 ~~award as the result of application of the 5-percent small business~~
39 ~~bidder incentive.~~

~~(f) All state contracts issued to bidders who are awarded preferences under this section shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.~~

~~(g) (1) A business that requests and is given the preference provided for in subdivision (a) or (b) by reason of having furnished a false certification, and that by reason of this certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:~~

~~(A) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.~~

~~(B) In addition to the amount specified in subparagraph (A), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.~~

~~(C) Be ineligible to directly or indirectly transact any business with the state for a period of not less than six months and not more than 36 months.~~

~~(2) Prior to the imposition of any sanction under this subdivision, the business shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.~~

~~(h) In each instance in this section an enterprise zone shall also mean any enterprise zone or program area previously authorized under any other provision of state law.~~

~~(i) As used in this section, "enterprise zone eligible employees" means employees who meet any of the requirements of clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 17053.74 of the Revenue and Taxation Code.~~